

## AGENDA



Thursday, February 12, 2009

**Item(s) to Set Public Hearing(s)**  
**RECOMMENDATION FOR COUNCIL ACTION****Item No. 31**

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**Subject:** Set a public hearing to consider a request by MARTEX-BBQ (Doug Marcella), the owner of property located at 9207 North Lamar Boulevard, for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a public school. (Suggested date and time: February 26, 2009, 6:00 p.m. at Austin City Hall, 301 W. Second St., Austin, TX.)

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**For More Information:** John McDonald, 974-2728; Darren Cain, 974-9113

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The owner of Taqueria Guadalajara, MARTEX-BBQ LLC (Doug Marcella) requests a waiver from the minimum distance requirement of 300 feet in Section 4-9-4(A) of the Austin City Code because he intends to sell alcoholic beverages at his restaurant which is located 175 feet from a public school, Barrington Elementary, at 400 Cooper Dr.

Section 4-9-5 allows the City Council to waive the 300 foot distance requirement if it determines that the enforcement of the distance requirement in a particular instance:

- (1) is not in the best interest of the public;
- (2) constitutes waste or the inefficient use of land or other resources;
- (3) creates an undue hardship on the applicant;
- (4) does not serve its intended purpose;
- (5) is not effective or necessary; or
- (6) for any other reason the Council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

The Austin Independent School District objects to the waiver. A written objection to the granting of the waiver was received from Joe Silva, Assistant Director of Planning, Austin Independent School District.